

Public



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

September 30, 2009

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jamil Ibrahim, M.D.

Redacted Address

Margaret H. Mayo, Esq.  
Gaffin & Mayo, P.C.  
225 Broadway, Suite 2510  
New York, New York 10007

Nancy Strohmeier, Esq.  
NYS Department of Health  
Bureau of Professional Medical Conduct  
90 Church Street – 4<sup>th</sup> Floor  
New York, New York 10007

**RE: In the Matter of Jamil Ibrahim, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 09-184) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

Redacted Signature

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:djh

Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

**COPY**

**IN THE MATTER  
OF  
JAMIL IBRAHIM, M.D.**

**DETERMINATION**

**AND**

**ORDER**

BPMC NO. 09-184

**GERALD M. BRODY, M.D.**, Chairperson, **LYON M. GREENBERG, M.D.** and **WILLIAM McCAFFERTY, ESQ.**, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **CHRISTINE C. TRASKOS, ESQ.**, served as Administrative Officer for the Hearing Committee. The Department of Health appeared by **THOMAS CONWAY, ESQ.**, General Counsel, **NANCY STROHMEYER, ESQ.**, Associate Counsel, of Counsel. The Respondent appeared by **GAFFIN & MAYO, P.C., MARGARET H. MAYO, ESQ.**, of Counsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee submits this Determination and Order.

### **STATEMENT OF CHARGES**

The accompanying Amended Statement of Charges alleged thirteen (13) specifications of professional misconduct, including allegations of negligence on more than one occasion, gross negligence, patient abuse, moral unfitness, fraudulent practice, filing a false report and violating Section 2805(k) of the Public Health Law (Investigations prior to granting or renewing privileges). The charges are more specifically set forth in the Amended Statement of Charges dated April 27, 2009, a copy of which is attached hereto as Appendix I and made a part of this Determination and Order. Respondent filed an Answer dated, May 2, 2009 and denied all allegations.

### **SUMMARY OF PROCEEDINGS**

Pre-Hearing Conference	April 27, 2009
Hearing Dates:	May 4, 2009
	June 25, 2009
	June 29, 2009
Deliberation Date:	July 30, 2009

### **WITNESSES**

For the Petitioner:	Patient A
	Leonzo Cuiman
	Neal Shipley, M.D.
For the Respondent:	Jamil Ibrahim, M.D.
	Shahriar Zehtabchi, M.D.

### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record available to the Hearing Committee in this matter. These Findings represent documentary evidence and testimony found persuasive by the Hearing Committee. Where there was conflicting evidence the Hearing Committee considered all of the evidence presented and rejected what was not relevant, believable, or credible in favor of the cited evidence. The Petitioner, which has the burden of proof, was required to prove its case by a preponderance of the evidence. The Hearing Committee unanimously agreed on all Findings, and all Findings were established by at least a preponderance of the evidence.

1. Jamil Ibrahim, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 12, 2002, by the issuance of license number 226342 by the New York State Education Department.
2. In August, 2005 Respondent was employed as an attending physician in the emergency departments at SUNY Downstate Medical Center ("SUNY Downstate") and at Kings County Hospital. (T. 229-230)
3. SUNY Downstate is affiliated with Kings County Hospital. Both hospitals share services such as technical and lab services as well as physicians. (T. 130-131)
4. A physician must apply separately for privileges at each institution. (T. 131)
5. Each institution has a separate employee discipline system. (T. 131)

6. On August 18-19, 2005 Respondent treated Patient A, a 23 year- old female in the emergency department of Kings County Hospital. Patient A had no prior medical history. She complained of loss of vision in one eye and blurred vision in the other eye. (T. 231-232; Dept. Ex. 3, pp. 14-15)
7. On or about August 19, 2005 after various tests and a neurological consultation, Patient A was admitted to the hospital. (T. 234-235, 237)
8. Patient A presented an interesting medical case, which doctors working in the emergency department would want to follow up on after her admission, for their own medical knowledge and for possible presentation to residents. (T. 212-213, 236, 255)
9. It is appropriate for doctors working in the emergency department to visit patients in the hospital for follow-up of interesting cases. (T. 197- 199, 241-242, 257, 260)
10. On August 19, 2005 Respondent visited Patient A in her hospital room at Kings County Hospital. He did so because he wanted to follow up on her interesting medical case. (T. 238)
11. During the visit with Patient A, Respondent asked her how she was feeling and what tests and/or procedures she had done. He also asked her about her diagnosis. (T. 244)
12. Respondent reassured her as to her fears about her condition, said he hoped she felt better and left Patient A's room. (T. 244-245)
13. Soon after his visit with Patient A, Respondent was told by Dr. Orlando Adamson, Director of the Emergency Department at Kings County Hospital, that Patient A had made a complaint against him and that he should meet with Mr. Leonzo Cuiman, deputy director of Labor Relations at SUNY Downstate. (T. 269)
14. On August 29, 2005 Respondent met with Mr. Cuiman who interviewed him about Patient A's complaint. (T. 270)

15. Respondent was not placed on administrative leave, but his schedule was changed based on the ongoing investigation of Patient A's complaint. (T. 274- 321-322)
16. In January, 2006 Respondent applied for re-appointment to the staff of SUNY Downstate. (T. 274; Resp. Ex. H)
17. As part of the application process Respondent's superiors at SUNY Downstate submitted written evaluations and recommendations concerning him. (T. 275)
18. On January 27, 2006, Dr. Michael Lucchesi gave Respondent a positive evaluation and recommendation and specifically stated on the form that Respondent's privileges and employment had never been suspended, restricted or revoked, that the applicant had never been subject to disciplinary action, and that he did not have any information concerning the practitioner that was required to be reported to the hospital pursuant to New York State Public Health Law Section 2803-e. (Resp. Ex. M)
19. On March 17, 2006, Dr. Roger Holt gave Respondent a positive evaluation and recommendation. (Resp. Ex. K)
20. Respondent was re-appointed to the staff of SUNY Downstate in April, 2006. (T. 275; Resp. Ex. F)
21. In March, 2006 Respondent applied for re-appointment to the staff of Kings County Hospital. (T. 280; Dept. Ex. 4, pp. 8-12)
22. As part of the application process, Respondent's superiors at Kings County Hospital submitted a written evaluation and recommendation concerning him. ( T. 281)

23. On May 3, 2006, Dr. Stephan Rinnert, Director of the Residency Program of the Emergency Departments at SUNY Downstate and Kings County Hospital, gave Respondent a positive evaluation and recommendation and specifically stated on the form that Respondent's clinical privileges had never been denied, challenged, investigated, suspended, revoked, modified, placed on probation, or voluntarily/involuntarily relinquished. (Dept. Ex. 4, pp. 20-22)
24. On or about March 27, 2006, when applying for re-appointment to the staff of Kings County Hospital, Respondent answered the following question in the negative:
- “Have you ever been, or have Pending Challenges, or are you currently subject to denial, revocation, suspension, probation, non-renewal, voluntary/involuntary relinquishment/termination, reduction, limitation or diminution of . . . Clinical Privileges/competencies at any hospital/medical facility? (Dept. Ex. 4, p.10)
25. Respondent answered said question truthfully and did not intend to mislead. (T. 286)
26. In December, 2006 Respondent met with Mr. Cuiman. Mr. Cuiman told him that he was investigating another matter (unrelated to Patient A), and that Respondent would likely be summarily suspended and that the summary suspension would remain on his record, regardless of guilt or innocence. Mr. Cuiman asked if Respondent was considering resigning and Respondent told him of his intention to go to Dubai to work at a hospital there. Mr. Cuiman said that it would be a good time to resign, although he could continue to work at Kings County Hospital. (T. 291, 295-296)



27. After the meeting, Respondent resigned since he had previously decided to leave SUNY Downstate and Kings County Hospital, although he continued to work at Kings County Hospital for several weeks, with no objection by his superiors at the hospital. (T. 291, 357-358)
28. In January 2007, Respondent applied for a per diem position in the emergency department at Methodist Hospital, Brooklyn, New York. (T. 292-293)
29. On the January 2007 application form for the position at Methodist Hospital, Respondent answered the following question in the negative:
- “Have you ever resigned your medical staff privileges in a medical, dental or managed care organization in order to avoid the imposition of professional discipline?”(Dept. Ex.5, p.12).
30. At the time he answered said question, Respondent understood that the term “professional discipline” meant a finding of guilt and imposition of punishment. (T. 294-295)
31. Respondent answered the aforesaid question on the January 2007 Methodist Hospital application truthfully and did not intend to mislead. (T. 293)
32. On the January 2007 application form for Methodist Hospital, Respondent answered the following question in the negative:
- “Have there been any actions taken against you relative to a violation by you of a patient’s rights in any health care facility (i.e., findings arising out of complaints by patients about the care and services provided by you)?” (Dept. Ex. 5, p.12)

33. At the time Respondent answered said question there had been no violation by him of a patient's rights in any health facility or findings arising out of complaints by patients about the care and services provided by him. (T. 295)
34. Respondent answered said question truthfully and did not intend to mislead. (T. 295)
35. On the application form for Methodist Hospital, Respondent answered the following question in the negative:
36. "Have any of the following been, or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed, voluntarily, or involuntarily relinquished, withdrawn, investigated, challenged or subject to any other disciplinary action such as reprimand, censure or focused individual review?...  
e) Membership on any hospital staff; f) Clinical privileges" ...  
(Dept. Ex. 5, p.12)
37. Respondent answered said question truthfully and did not intend to mislead. (T. 295)
38. Respondent re-applied to the staff of Methodist Hospital in July 2007. ( T. 301)
39. On the July 2007 application form for Methodist Hospital, Respondent answered the following questions in the negative:
- "Have you ever resigned your medical staff privileges in a medical, dental or managed care organization in order to avoid the imposition of professional discipline?"
- "Have there been any actions taken against you relative to a violation by you of a patient's rights in any health care facility  
(i.e., findings arising out of complaints by patients about the care

and services provided by you)?" (Dept. Ex. 5, p. 135)

"Have any of the following been, or are any currently in the process of being denied, revoked suspended, reduced, limited, placed on probation, not renewed, voluntarily, or involuntarily relinquished, withdrawn, investigated, challenged or subject to any other disciplinary action such as reprimand, censure or focused individual review? e) Membership on any hospital staff; f) Clinical privileges."

(Dept. Ex. 5, p. 135)

40. Respondent answered said questions truthfully and did not intend to mislead. (T. 302)

### **CONCLUSIONS OF LAW**

Respondent is charged with thirteen (13) specifications alleging professional misconduct within the meaning of Education Law §6530. This statute sets forth numerous forms of conduct which constitute professional misconduct, but do not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum prepared by the General Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law", sets forth suggested definitions for gross negligence, negligence, gross incompetence, incompetence and the fraudulent practice of medicine.

The following definitions were utilized by the Hearing Committee during its deliberations:

Negligence is failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances.

Gross negligence is failure to exercise the care that would be exercised by a reasonably prudent physician under the circumstances, and which failure is manifested by conduct that is egregious or conspicuously bad.

Fraudulent practice is the intentional misrepresentation or concealment of a known fact, made in some connection with the practice of medicine. The Hearing Committee must find that (1) a false representation was made by the licensee, whether by words, conduct or concealment of that which should have been disclosed, (2) the licensee knew the representation was false, and (3) the licensee intended to mislead through the false representation. The licensee's knowledge and intent may properly be inferred from facts found by the Hearing Committee, but the Committee must specifically state the inferences it is drawing regarding knowledge and intent.

Using the above-referenced definition as a framework for its deliberations, the Hearing Committee concluded, by a preponderance of the evidence, that all thirteen (13) specifications of professional misconduct should not be sustained. The rationale for the Committee's conclusions regarding each specification of misconduct is set forth below.

At the outset of deliberations, the Hearing Committee made a determination as to the credibility of various witnesses presented by the parties.

The Hearing Committee gave serious consideration to the testimony of Patient A. All of the alleged charges stem from her allegations and it comes down to her word versus that of the Respondent. The Hearing Committee finds no corroboration of her statements. Patient A testified that she told the nurse, housekeepers, her hospital roommate and family members about the incident. None of these persons testified to corroborate her statements. More significantly, Patient A's testimony at the hearing was inconsistent with what she told the social worker prior to her discharge from the hospital. First she testified that she did not recall seeing a social worker, but this is contrary to the hospital record. (T. 74, Pet. Ex. 3, p.49) Next she told the social worker that she did not tell anyone on duty and spoke only to her relatives. (Dept. Ex. 3, p.51). The Hearing Committee further notes that the evidence from the police department indicates that Patient A did not follow through with her complaint when contacted by the authorities. (Resp. Exs. A-E ). All of these factors considered together make it difficult for the Hearing Committee to find Patient A's testimony reliable.

Leonzo Cuiman, Director of Labor Relations at SUNY Downstate also testified for the Department. He is responsible for disciplinary investigations, contract interpretations and employee complaints. Although Mr. Cuiman tried to testify as if the issues were clear cut, the Hearing Committee found that his investigations were inconclusive. He was unable to verify the complaint by Patient A and admitted to a lack of cooperation from Kings County Hospital where the alleged incident with Patient A occurred. Mr. Cuiman acknowledged that he closed his investigation with no findings. (T. 159, 162). With respect to a second complaint, unrelated to Patient A, Mr. Cuiman suggested that Respondent would have been terminated without ever completing his

investigation. The second complaint was not part of the Amended Statement of Charges and was not considered by the Hearing Committee. The Hearing Committee determined that it could infer no conclusions from Mr. Cuiman's testimony.

Neil Shipley, M.D., FACEP, also testified for the Department. Dr. Shipley is currently employed at New York Presbyterian Hospital as the Director of Quality and Patient Safety for the emergency department. (T. 193). He is a double-boarded physician in Emergency and Internal Medicine. (Ex.9). The Hearing Committee found Dr. Shipley to be credible and straightforward but not overly helpful on the issues before them.

Respondent testified on his own behalf. The Hearing Committee found that Respondent was very careful in his responses. He kept his answers very general and provided few specifics. The Hearing Committee remains uncertain about Respondent's explanation about why he left SUNY Downstate and Kings County Hospital. It would have been preferable to have more evidence regarding his job seeking efforts overseas and elsewhere after he became dissatisfied with his position at SUNY Downstate. Although his testimony was evasive, the Hearing Committee has insufficient evidence to believe that Respondent lied to them. The Hearing Committee gave Respondent's testimony moderate weight.

Respondent also offered the testimony of Shahriar Zehtabachi, M.D. a former colleague who is currently an attending physician in the Department of Medicine at SUNY Downstate and Kings County Hospital. (T. 250-253 ; Ex. R) The Hearing Committee found Dr. Zehtabachi to be a credible but unhelpful witness.

**Factual Allegations A and A.1 : NOT SUSTAINED**

While it may be appropriate for an emergency room physician to visit a patient after she had been admitted for the physician's own educational follow-up, the Hearing Committee is uncertain if Respondent's visit to Patient A was justified. (T.222) The Hearing Committee however is only left with what Patient A said happened versus what Respondent said did not happen. Patient A's statements were inconsistent. The contemporaneous investigations by the hospital and police did not support her allegations. There is no corroborative testimony from other witnesses. The Hearing Committee believes that it is also a possibility Patient A may have suffered side effects from the large doses of steroids that she received while she was hospitalized. For these reasons the Hearing Committee concludes that there is insufficient evidence in the record to sustain the allegation that Respondent inappropriately touched Patient A while visiting her in her hospital room.

**Factual allegations B and B.1 (a) : NOT SUSTAINED**

The Hearing Committee does not believe that Respondent's answers on his re-application for privileges to Kings County Hospital in March 2006 were misleading or false. The record shows that in January 2006, Dr. Michael Lucchesi, the Chairman of the Emergency Room Departments at both SUNY Downstate and Kings County stated that Respondent's privileges had never been suspended or restricted and he was never subject to disciplinary action. In March 2006, Dr. Holt submitted similar answers on Respondent's re-appointment evaluation. Respondent continued to work after Patient A's complaint and went back to full clinical duties at both SUNY Downstate and Kings County. While the Hearing Committee believes there may have been some haziness in the hospital's policies, the Department never called Respondent's superiors to testify

regarding their endorsements of Respondent's re-appointment. The Hearing Committee concludes that there is no evidence in the record to support these charges.

**Factual allegations C and C.1a, C.2a, C.3a : NOT SUSTAINED**

Respondent's superior, Dr. Rinnert responded to Methodist's Hospital's reference inquiry about Respondent. Dr. Rinnert indicated that Respondent had not voluntarily or involuntarily resigned to avoid disciplinary measures.(Ex. 5, pp. 54-55). The Hearing Committee notes that both Drs. Holt and Rinnert recommended Respondent for the job with some reservation due to the pending OPMC investigation.

The Hearing Committee believes that the record supports Respondent's understanding of how he answered the questions regarding his resignation from SUNY Downstate and Kings County Hospitals. The record supports his statement that his privileges were not abridged. They again note that Respondent was allowed to finish his schedule after the second allegation materialized and that he received a recommendation from his Chairman on January 27, 2006. (Resp. Ex. M). The Hearing Committee does not sustain these charges.

**Factual allegations D and D.1a, D.2a, D.3a: NOT SUSTAINED**

The Hearing Committee does not sustain these charges for the same reasons discussed above for allegations C- C.3

**SPECIFICATION OF CHARGES**

The Hearing Committee by unanimous vote does not sustain the following Specifications:

First Specification: NEGLIGENCE ON MORE THAN ONE OCCASION

Second Specification: GROSS NEGLIGENCE



Third Specification: PATIENT ABUSE

Fourth Specification: MORAL UNFITNESS

Fifth through Seventh Specifications: FRAUDULENT PRACTICE

Eight through Tenth Specifications: FALSE REPORT

Eleventh through Thirteenth Specifications: VIOLATION OF PHL§ 2805-K

### **DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above determined by a unanimous vote that all charges against Respondent's license to practice medicine in New York State should be dismissed. This determination was reached on due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, the imposition of monetary penalties and dismissal in the interests of justice.

The Hearing Committee believes that they do not have 100 % of the information, but they can only base their decision on the testimony of the witnesses who appeared and the record presented at the hearing. They note that no evidence was ever presented that the Medical Board or the Board of Directors of either hospital ever took any action with respect to Respondent's privileges at either institution. The Hearing Committee voted for dismissal because there is insufficient evidence in the record to sustain the charges before them.

**ORDER**

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First through Thirteenth Specifications of Professional Misconduct, as set forth in the Amended Statement of Charges (Petitioner's Exhibit #1) are **NOT SUSTAINED**; and
2. All charges against Respondent's license to practice medicine in New York State are **DISMISSED**; and
3. This Order shall be effective on service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: New York, New York  
September 27 2009

Redacted Signature

**GERALD M. BRODY, M.D. (Chairperson)**  
**LYON M. GREENBERG, M.D.**  
**WILLIAM McCafferty, ESQ.**

TO:

Jamil Ibrahim, M.D.  
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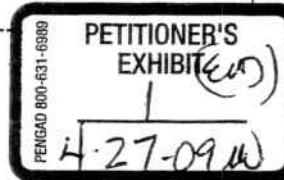
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# **APPENDIX I**

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
JAMIL IBRAHIM, M.D.

AMENDED  
STATEMENT  
OF  
CHARGES



JAMIL IBRAHIM, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 12, 2002, by the issuance of license number 226342 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about August 19, 2005, Respondent treated Patient A, a 23 year-old female (patient is identified in "Appendix A" herein), in the emergency department of Kings County Hospital Center in Brooklyn. Patient A complained of a loss of vision in one eye.
1. On or about August 20, 2005, after admitting Patient A to the hospital, Respondent went to her hospital room and inappropriately touched Patient A for other than a good faith medical purpose.
- B. On or about March 27, 2006, when reapplying for a staff appointment to Kings County Hospital Center, Respondent knowingly and falsely answered the following question in the negative:
1. "Have you ever been, or have Pending Challenges, or are you currently subject to denial, revocation, limitation or diminution of . . . Clinical privileges/ competencies at any hospital/medical facility?"
    - a. Respondent intended to mislead.

C. On or about January 16, 2007, when applying for a staff appointment to New York Methodist Hospital in Brooklyn, Respondent knowingly and falsely answered the following questions in the negative:

1. "Have you ever resigned your medical staff privileges in a medical, dental or managed care organization in order to avoid the imposition of professional discipline?"
  - a. Respondent intended to mislead.
2. "Have there ever been any actions taken against you relative to a violation by you of a patient's rights in any health care facility (i.e., in findings arising out of complaints by patients about the care and services provided by you?)"
  - a. Respondent intended to mislead.
3. "Have any of the following been, or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed, voluntarily or involuntarily relinquished, withdrawn, investigated, challenged or subject to any other disciplinary action such as reprimand, censure or focused individual review? e) Membership on any hospital staff; f) clinical privileges."
  - a. Respondent intended to mislead.

D. On or about July 11, 2007, when applying for a staff appointment to New York Methodist Hospital in Brooklyn, Respondent knowingly and falsely answered the following questions in the negative:

1. "Have you ever resigned your medical staff privileges in a medical, dental or managed care organization in order to avoid the imposition of professional discipline?"
  - a. Respondent intended to mislead.

2. "Have there ever been any actions taken against you relative to a violation by you of a patient's rights in any health care facility (i.e., in findings arising out of complaints by patients about the care and services provided by you?)"
  - a. Respondent intended to mislead.
3. "Have any of the following been, or are any currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed, voluntarily or involuntarily relinquished, withdrawn, investigated, challenged or subject to any other disciplinary action such as reprimand, censure or focused individual review? e) Membership on any hospital staff; f) clinical privileges."
  - a. Respondent intended to mislead.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

##### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. Paragraph A and its subparagraph.

#### **SECOND SPECIFICATION**

##### **GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross

negligence on a particular occasion as alleged in the facts of the following:

2. Paragraph A and its subparagraph.

### **THIRD SPECIFICATION**

#### **PATIENT ABUSE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(31) by willfully harassing, abusing or intimidating a patient either physically or verbally as alleged in the facts of:

3. Paragraph A and its subparagraph.

### **FOURTH SPECIFICATION**

#### **MORAL UNFITNESS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

4. Paragraphs A, B, C and D and their subparagraphs.

### **FIFTH THROUGH SEVENTH SPECIFICATIONS**

#### **FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

5. Paragraph B and its subparagraph.
6. Paragraph C and its subparagraphs.
7. Paragraph D and its subparagraphs.



## **EIGHTH THROUGH TENTH SPECIFICATIONS**

### **FALSE REPORT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

8. Paragraph B and B1.
9. Paragraph C and C1 and/or C2 and/or C3.
10. Paragraph D and D1 and/or D2 and/or D3.

## **ELEVENTH THROUGH THIRTEENTH SPECIFICATIONS**

### **VIOLATION OF § TWENTY-EIGHT HUNDRED FIVE-K**

### **OF THE PUBLIC HEALTH LAW**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(14) by violating section twenty-eight hundred five-k of the Public Health Law, as alleged in the facts of:

11. Paragraph B and B1.
12. Paragraph C and C1 and/or C2 and/or C3.
13. Paragraph D and D1 and/or D2 and/or D3.

DATE: April 27, 2009  
New York, New York

Redacted Signature

\_\_\_\_\_  
Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct